STATE OF MICHIGAN

COURT OF APPEALS

In the Matter of BRIANNA AMMENA REMSON, ARUS BARSHALL REMSON, JOSEPH DARNALL REMSON, MONAE' MARIE REMSON, TANISHA MOUQUE REMSON, and DARRELL LAVON HICKS, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

JOY JEANETTE REMSON,

Respondent-Appellant,

and

ORIN LAMAR KING and ROBERT JONES,

Respondents.

UNPUBLISHED
March 8, 2005

No. 255714
Wayne Circuit Court
Family Division
LC No. 00-391042-NA

Before: Murray, P.J., and Markey and O'Connell, JJ.

PER CURIAM.

Respondent Joy Jeannette Remson (respondent) appeals as of right from the order terminating her parental rights to the minor children Monae', Tanisha, and Darrell under MCL 712A.19b(3)(a)(ii), (b)(ii), (c)(i), and (k)(i). We affirm.

The termination of parental rights is appropriate where petitioner establishes by clear and convincing evidence at least one statutory ground for termination. *In re Trejo*, 462 Mich 341, 355; 612 NW2d 407 (2000). Once this has occurred, the trial court shall terminate parental rights unless it finds that the termination is clearly not in the best interests of the children. *Id.* at 353. This Court reviews the trial court's findings under the clearly erroneous standard. *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999). To be clearly erroneous, a decision must be more than just maybe or probably wrong. *Id.* at 633.

The trial court terminated the parental rights of all three respondents under MCL 712A.19b(3)(a)(ii), (b)(ii), (c)(i), and (k)(i). After reviewing the record before us, we agree with

respondent Remson that the trial court relied upon subsections (3)(a)(ii) and (3)(k)(i) to terminate the parental rights of King and Jones. We further agree with respondent's arguments, to which the minor children concede, that the trial court erred in terminating her parental rights under MCL 712A.19b(3)(b)(ii), because there was no evidence that respondent had the opportunity to prevent the physical abuse of her child, and erred in relying on MCL 712A.19b(3)(c)(i), because the condition that led to adjudication, the physical abuse of respondent's child, no longer existed at the time of termination.

However, other conditions had arisen, such as respondent's lack of suitable housing and employment and failure to attend counseling, which had not been rectified at the time of the trial despite recommendations from the caseworkers and court, and there appeared no reasonable likelihood that these condition would be rectified within a reasonable time, given the ages of respondent's children and how long the conditions had existed. MCL 712A.19b(3)(c)(ii). While respondent concedes that this subsection could be applicable, she argues that it is a well-established rule that courts speak through their judgments or decrees, and because the court did not cite this subsection it does not apply to the case at hand. In *In re Perry,* 193 Mich App 648, 651; 484 NW2d 768 (1992), this Court determined that, although the termination petition had been brought solely under subsection (3)(e), the respondent was given adequate notice of the proofs that he would have to present to overcome termination under (3)(d), and therefore termination under this subsection was not in error. Like the respondent in *Perry,* respondent was given notice of the proofs that she would have to present to overcome termination under (3)(c)(ii). Respondent's treatment plan included maintaining suitable housing and a legal source of income and participating in parenting classes and therapy sessions. There were times during the duration of this case that respondent complied with the treatment plan. However, at the time of trial, respondent still did not have a suitable home for the children and apparently had only a part-time job. In addition, respondent did not start counseling until just before the termination trial. After a careful review of the record before us, we find that clear and convincing evidence was presented warranting termination under MCL 712A.19b(3)(c)(ii).

Respondent also concedes that MCL 712A.19b(3)(g) could be applicable, and this subsection was cited in the petition seeking permanent custody as a ground for termination of the parental rights of all the parents of the children. Moreover, respondent's treatment plan included obtaining suitable housing and employment, which directly relates to the care of the children. Thus, we find that respondent was given adequate notice of the proofs that she would have to present to overcome termination under this subsection as well. *Perry, supra* at 651. We also find that respondent's failure to obtain suitable housing and employment warrant termination under this subsection. At the termination trial, respondent was asked when she thought she would be ready to plan for her children, and she stated, "Well once I get my house and I get better employment, so, I can't give a specific date 'cause I'm not sure." Given the amount of time that respondent had been given to comply with this aspect of her treatment plan, and given the fact that respondent did not know when she would be ready to plan for the children, we find that clear and convincing evidence was presented showing that respondent had failed to provide proper care for the children and that there was no reasonable expectation that she would be able to provide such care within a reasonable time.

Finally, termination of respondent's parental rights was not contrary to the best interests of the children. While respondent obviously loves her children, and has a bond with them, she

had ample opportunities to comply with the treatment plan and establish that she could provide proper care and custody for them and failed to do so.

Affirmed.

/s/ Christopher M. Murray
/s/ Jane E. Markey
/s/ Peter D. O'Connell